

## **II. Remarks**

In response to the Office Action mailed November 25, 2003, kindly enter the foregoing amendment and consider the following remarks.

Pursuant to 37 C.F.R. §1.112 Applicants request reconsider of each and every ground of rejection set forth in the Office Action.

The Office Action and the references cited therein have been carefully considered. In this Amendment, claim 6 has been amended and claims 1-7 are pending and are at issue herein. In view of these amendments and the following remarks, favorable reconsideration of this application is requested.

### **INFORMATION DISCLOSURE STATEMENT**

The Examiner notes that listing of references in the specification is not a proper Information Disclosure Statement. The Applicants presume the Examiner is referring to the citation of DE 19648596 in paragraph 20 of the specification. The Applicants note that paragraph 20 incorporates by reference the disclosure of DE 19648596, but none the less have submitted its counterpart WO 98/23473 herewith in a Supplemental Information Disclosure Statement.

### **CLAIM REJECTIONS UNDER 35 USC §112**

Claims 6 and 7 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The Applicants have amended Independent claim 6 to insure proper antecedent basis for all limitations. Reconsider of this rejected is respectfully requested.

### **CLAIM REJECTIONS UNDER 35 USC §103**

Claims 1-5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Meier (DE 4408879) in view of Reinartz (U.S. Pat. No. 5,188,433).

First, the Applicants reiterate their remarks given in the prior Office Action regarding citation of the Meier reference. The MPEP requires that when a document is in a language other than English and the Examiner seeks to rely on that

document, a translation must be obtained so that the record is clear as to the precise facts the Examiner is relying upon in support of the rejection. The Applicants have not been provided with a translation of the Meier reference, nor has such a translation been made of record. The Applicants have provided an English abstract of the Meier reference in the Supplemental Information Disclosure Statement submitted on September 2, 2003 and considered by the Examiner on November 14, 2003. The Applicants presume the Examiner is limiting the rejection to the English abstract and drawings of the Meier reference, and will respond accordingly.

The Examiner asserts the abstract of Meier discloses a brake circuit with motor for hydraulic pump which determines the viscosity of a brake fluid as it is affected by temperature of a vehicle brake circuit. However, the abstract of the Meier reference merely discloses that the pump speed is reduced after a certain delay time, wherein the delay time varies depending on the fluid viscosity, battery voltage and the instantaneous pressure requirement. The Meier abstract simply does not disclose that the viscosity is determined, nor does it disclose any way of determining viscosity. For example, different fluid mediums may be utilized having different viscosities, and the time delay may be set based on the particular type of fluid medium and its predetermined viscosity. In sum, the abstract of the Meier reference does not disclose, nor does it teach or suggest, detection of fluid viscosity.

The Applicants also direct the Examiner's attention to MPEP §2121 which states that the requirement for an enabled disclosure is the same no matter what type of prior art is at issue. The Applicants respectfully assert that the abstract of the Meier reference is non-enabled.

The Examiner has relied upon the Reinartz reference for disclosure of an anti-lock hydraulic brake system having a predetermined pressure build-up within time limits having the steps of detecting in at least one section of the brake circuit, a pressure in the section and measuring at least one of a magnitude of the pressure or a time required for build-up of the pressure and relating the magnitude of the pressure or time to the viscosity. The Examiner cites columns 1 and 2 of the Reinartz reference.

The Applicants have thoroughly reviewed the Reinartz reference and can find no reference in the entire reference to either detecting a pressure in the section, or

measuring at least one of a magnitude of the pressure or time required for the build-up of the pressure, or relating the magnitude of the pressure or time to the viscosity. To the contrary, the Reinartz reference discloses a bimetal spring which can be arranged inside a pressure limiter to adjust the switch point of the differential pressure limiter in based on temperature. However, a magnitude of the pressure or a time required for a build-up of the pressure is not measured. Further, such magnitude of the pressure or time is not related to viscosity.

Clearly, the Reinartz reference does not disclose several steps recited in claim 1. As admitted by the Examiner, the abstract of Meier reference also does not disclose these elements. Accordingly, even assuming the propriety of the combination or modification proposed by the Examiner, the elements of claim 1 have not been met. Regarding the combination, the abstract of the Meier reference does not disclose a differential pressure limiter, and the Applicants cannot see how there is any teaching, suggestion or motivation, or any possible way to modify the abstract of the Meier reference with a bi-metal spring in a non-existent pressure differential limiter. The combination is not only without a teaching, but is also unworkable.

With regard to claim 2, the Examiner asserts the Reinartz reference discloses where the time required to build up the pressure is determined by way of switching valves of the brake circuit which initiate a pressure build-up. The Applicants reiterate the remarks given above with regard to the Reinartz reference, which does not disclose the build-up of a pressure in a section of the brake circuit that is controlled by switching valves. To the contrary, the Reinartz reference refers to a normal braking operation which occurs when depression of the brake pedal causes a pressure build-up in the master cylinder which is then transferred to the brake through a pressure limiter, and the reference describes an improvement to the problem of a slow or decelerated pressure build-up in the brake due to operation of the pressure limiter.

With regard to claim 3, Figure 1 of Meier discloses a pressure versus time graph which will inherently have a maximum magnitude. The figure of the Meier reference does not disclose detection of the maximum magnitude of the pressure nor does the abstract of Meier. With regard to claim 4, Figure 2 of Meier is not a depiction of the magnitude of pressure variation. Neither the figures nor the abstract

of the Meier reference discloses determination of the magnitude of pressure variation.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

#### CONCLUSION

In view of the preceding amendments and remarks, the Applicants respectfully submit that the specification is in order and that all of the claims are now in condition for allowance. If the Examiner believes that personal contact would be advantageous to the disposition of this case, the Applicants respectfully request that the Examiner contact the Attorney of the Applicants at the earliest convenience of the Examiner.

Applicants have calculated no fees to be presently due in connection with the filing of this Paper. However, Applicants have authorized charging of any fee deficiency to the deposit account, as indicated in the Transmittal accompanying this Statement.

Respectfully submitted,

1/15/04  
Date

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